

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO.: 1:16CR224
	)	
Plaintiff,	)	JUDGE PATRICIA A. GAUGHAN
	)	
v.	)	
	)	
BOGDAN NICOLESCU,	)	FIRST SUPPLEMENTAL NOTICE
TIBERIU DANET, and	)	PURSUANT TO FEDERAL RULE OF
RADU MICLAUS	)	CRIMINAL PROCEDURE 16(a)(1)(G)
	)	
Defendants.	)	
	)	
	)	

Now comes the United States of America, by and through counsel, Justin E. Herdman, United States Attorney, and Duncan T. Brown and Brian M. McDonough, Assistant United States Attorneys, and Brian L. Levine, Senior Counsel, Department of Justice, and respectfully provides this First Supplemental Notice pursuant to Federal Rule of Criminal Procedure 16(a)(1)(G) of persons who may testify as experts under Federal Rule of Evidence 702 in its case in chief.

On April 9, 2018, the United States filed a Notice Pursuant to Federal Rule of Criminal Procedure 16(a)(1)(G). (Dkt. 59.) In that notice, the government noted that while it “does not presently intend to present any paid experts as part of its case in chief, it identifies the following anticipated witnesses, along with their general role, and expected testimony in an abundance of caution, as some of the testimony of these witnesses may be technical in nature or may require other specialized knowledge.” (*Id.* at 1.)

In light of the Court's May 31, 2018 Order (Dkt. 70) regarding the government's authentication motion, acting in an abundance of caution, the government notes that it may also call as a witness at trial **FBI Supervisory Special Agent Paul Mueller** and/or other employees or contractors of the FBI Unit that provides technical assistance with real-time collection of data. SSA Mueller is expected to testify to (a) the process, hardware, and software the FBI used to do real-time collection of data from Dacentec and Dreamhost; (b) why that process, hardware, and software is reliable; (c) the fact that the same process, hardware, and software has produced reliable results in the past; and (d) how the jury can tell the process and resulting data is reliable in this case.

SSA Mueller is not receiving any compensation from the government for his testimony, other than his normal government salary, and standard reimbursement of travel expenses incurred to testify. A summary of SSA Mueller's background and experience has already been provided to defense as Docket # 68-1 at ¶ 3, and a resume is also provided as **Exhibit A**. Any witness statement that has not already been provided will be provided to the defense at the appropriate time.

The government also notes that, witnesses previously noticed as potential expert witnesses, including FBI Computer Scientist Joseph F. Corrigan and FBI Supervisory Special Agent Ryan MacFarlane may testify that they have (a) reviewed the images of digital devices seized from the defendants in Romania and Miami and the metadata associated with those images; (b) confirmed that the user files on those devices were generated prior to the defendants' arrests and the device seizure (in some instances, months or years before); (c) confirmed that system and other files on the devices were also generated prior to the defendants' arrests and the device seizure; and (d) identified no evidence that any of the files

reviewed on these devices were placed on any device without the knowledge or authorization of the person who owned or controlled the device.

Respectfully submitted,

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United States Attorney

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of June, 2018, a copy of the Supplement Notice Pursuant To Federal Rule Of Criminal Procedure 16(a)(1)(g) was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Duncan Brown

Duncan T. Brown

Assistant United States Attorney